

Department of Energy

under covered contracts are subject to compliance with this part.

§ 719.2 What are the definitions of terms used in this part?

For purposes of this part:

Alternative dispute resolution includes, but is not limited to, processes such as mediation, neutral evaluation, mini-trials and arbitration.

Contractor means any person or entity with whom the Department contracts for the acquisition of goods or services.

Covered contracts means those contracts described in § 719.3 of this part.

Days means calendar days.

Department means the Department of Energy (DOE), including the National Nuclear Security Administration (NNSA).

Department Counsel means the attorney in the DOE or NNSA field office, or Headquarters office, designated as the contracting officer's representative and point of contact for a contractor or for Department retained legal counsel, for purposes of this part.

General Counsel means the DOE General Counsel for DOE legal matters and the NNSA General Counsel for NNSA legal matters.

Legal costs means, but is not limited to, administrative expenses associated with the provision of legal services by retained legal counsel; the costs of legal services provided by retained legal counsel; the costs of the services, if the services are procured in connection with a legal matter, of accountants, consultants, experts or others retained by the contractor or by retained legal counsel; and any similar costs incurred by retained legal counsel or in connection with the services of retained legal counsel.

Legal Management Plan means a document required by subpart B of this part describing the contractor's practices for managing legal costs and legal matters for which it procures the services of retained legal counsel.

Litigation means a proceeding arising under or related to a contract between the contractor and the Department to which the contractor is a party in a State, tribal, territorial, foreign, or federal court or before an administrative body or an arbitrator.

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Retained legal counsel means a licensed attorney working in the private sector who is retained by a contractor or the Department to provide legal services.

Retrospective insurance means any insurance policy under which the premium is not fixed but is subject to adjustments to reimburse the insurance carrier for actual losses incurred or paid (e.g. claims, settlements, damages, and legal costs). Retrospective insurance includes service-type insurance policies as described in 48 CFR 928.370.

Settlement agreement means a written agreement between a contractor and one or more parties pursuant to which one or more parties waives the right to pursue a legal claim in exchange for something of value.

Significant matters means legal matters involving significant issues as determined by Department Counsel and identified to a contractor in writing, and any legal matters where the amount of any legal costs, over the life of the matter, is expected to exceed \$100,000.

Staffing and Resource Plan means a statement prepared in accordance with subpart B of this part by retained legal counsel that describes the method for managing a Significant Matter in litigation.

§ 719.3 What contracts are covered by this part?

(a) Unless excluded under § 719.5, this part covers the following three categories of contracts:

(1) All management and operating contracts;

(2) Non-management and operating cost reimbursement contracts exceeding \$100,000,000; and

(3) Non-management and operating contracts exceeding \$100,000,000 that include cost reimbursable elements exceeding \$10,000,000 (e.g., contracts with both fixed-price and cost-reimbursable line items where the cost-reimbursable line items exceed \$10,000,000 or time and materials contracts where the materials portions exceed \$10,000,000).

(b) This part also covers contracts otherwise not covered by paragraph (a) of this section but which contain a